

TRANSMITTAL OF RULES ADOPTED

FROM: Washington State Liquor Control Board
(Name of Agency)

TO: CODE REVISER
LEGISLATIVE BLDG. (Southwest Corner, Ground Floor)
OLYMPIA 98504

The enclosed rules Permanent rules ☒ , being Order No. 54
Emergency rules ☐

relating to (Name of rules or description of subject matter)

WAC 314-20-100 BEER WHOLESALE PRICE POSTING (49)

WAC 314-20-105 BEER SUPPLIERS' PRICE FILINGS, CONTRACTS
AND MEMORANDA (49.5)

WAC 314-24-190 WINE WHOLESALE PRICE POSTING (81)

WAC 314-24-200 WINE SUPPLIERS' PRICE FILINGS, CONTRACTS
AND MEMORANDA (82)

(ALTERNATIVE A. Use only for adoption of permanent rules)

pursuant to Notice No. 7554 ① filed with the code reviser
on 5-3-77 ② were regularly adopted as permanent rules of
(date)
this agency at Olympia, Washington on 5-24-77 and are herewith
(place) (date)
filed in the office of the code reviser pursuant to chapter 34.04
RCW. The effective date of such rules shall be 7-1-77 ③

(ALTERNATIVE B. Use only for adoption of emergency rules)

pursuant to its finding in the attached administrative order,
that the immediate adoption of these rules is necessary for the
preservation of the public health, safety, or general welfare and
that observance of the requirements of notice and opportunity to
present views on the proposed action would be contrary to the
public interest, were regularly adopted as emergency rules of this
agency at _____ on _____ and
(place) (date)
are herewith filed in the office of the code reviser pursuant to
chapter 34.04 RCW.

The undersigned hereby certifies that the requirements of chapter
34.04 RCW and of the Open Public Meetings Act of 1971, chapter
42.30 RCW have been fulfilled.

Dated this 24th day of May 1977.

STATE OF WASHINGTON
FILED

MAY 24 1977

Washington State Liquor Control Board
(AGENCY)

L. H. Pedersen
By L. H. PEDERSEN

CODE REVISER'S OFFICE

Chairman

DUCKET # _____ FILE # _____

Title _____

**DEFENDANT'S
EXHIBIT**

CASE
NO. C04-0360P

EXHIBIT
NO. 479

- ① Notice number as appears on the copy of notice returned to you by
reviser's office (if proceedings were continued, use no. of last notice)
② Stamped date as appears on the copy of notice returned to you by
reviser's office (if proceedings were continued, use date of last notice)
③ Unless a later date is specified in this order or is prescribed in
another statute, rules are effective 30 days after filing:
RCW 34.04.040. Leave this space blank except in such special cases.
[Order 9, filed 9/25/74, eff. 10/25/74] [Form CR-2: Rev. 9/21/74]

TX479-001

WASHINGTON STATE LIQUOR CONTROL BOARD

RESOLUTION NO. 63

Administrative Order No. 54
LCB Order Register (WAC 1-12-040)

A RESOLUTION Relating to permanent rules of the Washington State Liquor Control Board.

BE IT RESOLVED BY THE WASHINGTON STATE LIQUOR CONTROL BOARD:

Section 1. The annexed amended regulations, to wit:

WAC 314-20-100 BEER WHOLESALE PRICE POSTING (Rule (49)),
WAC 314-20-105 BEER SUPPLIERS' PRICE FILINGS, CONTRACTS AND
MEMORANDA (Rule (49.5)), WAC 314-24-190 WINE WHOLESALE PRICE
POSTING (Rule (81)), and WAC 314-24-200 WINE SUPPLIERS' PRICE
FILINGS, CONTRACTS AND MEMORANDA (Rule (82)) are hereby approved
and adopted as permanent rules of the Washington State Liquor
Control Board, effective July 1, 1977.

Section 2. This resolution and annexed amended regulations,
after being first recorded as an administrative order in the Order
Register of the Washington State Liquor Control Board, shall be
forwarded to the Code Reviser for filing pursuant to RCW 34.04
and WAC 1-12-050, and forthwith published in pamphlets, which
pamphlets shall be distributed free at all liquor stores and as
otherwise directed by the Board.

Dated this 24th day of May, 1977.

WASHINGTON STATE LIQUOR CONTROL BOARD

Attest:

Vivienne V. Huber
Vivienne V. Huber, Secretary

APPROVED AS TO FORM:

Arthur Mickey
Arthur Mickey
Assistant Attorney General

L. H. Pedersen
Larry M. Little
Don Eschinger

AMD

WAC 314-20-100 BEER WHOLESALE PRICE POSTING (Rule (49))

(1) Every beer wholesaler shall file with the board at its office in Olympia a price posting showing the delivered wholesale prices at which any and all brands of beer sold by such beer wholesaler shall be sold to retailers within the state.

(2) No price posting shall become effective until fifteen days after the actual filing thereof with the board. In the event a price posting is filed before a previous one has become effective, the subsequent filing shall nullify said previous price posting.

(3) Each price posting shall be made on a form prepared and furnished by the board and shall set forth:

(a) all brands, types, packages and containers of beer offered for sale by such beer wholesaler.

(b) The delivered wholesale prices thereof to retail licensees, including allowances, if any, for returned empty containers.

(4) No beer wholesaler shall sell or offer to sell any package or container of beer to any retail licensee at a price differing from the price for such package or container as shown in the price posting filed by the beer wholesaler and then in effect.

(5) Quantity discounts are prohibited. No price shall be posted which is below "cost," or below "cost of doing business," or a "loss leader," as those terms are defined in Chapter 19.90 RCW, Unfair Practices Act, except as otherwise provided in such Act.

(6) Wholesale prices on a "close-out" item shall be accepted by the board if in compliance with Chapter 19.90 RCW and the item to be discontinued has been listed on the state market for a period of at least six months, and upon the further condition that the wholesaler who posts such a close-out price shall not restock the item for a period of one year following the first effective date of such close-out price.

(7) If an existing written contract or memorandum of oral agreement between a licensed brewer, certificate of approval holder, beer importer or beer wholesaler and a beer wholesaler, on file in accordance with Regulation (49.5), is terminated by either party, and a new written contract or memorandum of oral agreement is made by such a supplier with another beer wholesaler in the affected trade area, the board, after receiving such new contract or memorandum of oral agreement and a corresponding wholesale price posting from the newly-designated beer wholesaler, may put such filings into effect immediately: Provided, That prices and other conditions of such filings which are in effect at the time of such termination shall not be changed until subsequent filings are submitted to the board and become effective under regulatory procedures set forth in other subsections of this regulation and Regulation (49.5).

(8) The board may reject any price posting which it deems to be in violation of this or any other regulation or portion thereof which would tend to disrupt the orderly sale and distribution of beer. Whenever the board shall reject any posting the licensee submitting said posting may be heard by the board and shall have the burden of showing that said posting is not in violation of regulation and/or does not tend to disrupt the orderly sale and distribution of beer. Thereupon if said posting is accepted it shall become effective at the time fixed by the board. If said posting is rejected, the last

effective posting shall remain in effect until such time as an amended posting is filed and approved, in accordance with the provisions of this regulation.

(9) All price postings filed as required by this regulation shall at all times be open to inspection to all trade buyers within the state of Washington and shall not within any sense be considered confidential.

(10) A retail licensee at his option and upon payment of the posted delivered price as defined in Regulation (49), may take delivery of beer at the platform of a beer wholesaler, provided that such platform delivery shall be made only upon presentation to the beer wholesaler, at the time such delivery, of a special identification card issued by the board to the retail licensee.

Such special identification cards shall be in such form as the board may prescribe and shall be issued to a retail licensee upon receipt by the board of such licensee's written request therefor and upon payment by the licensee to the board an annual fee of five dollars for each such special identification card. Such written request shall list the name and address of the wholesaler or wholesalers at whose platform the retail licensee requests permission to take delivery of beer, and the name of the adult person or persons authorized by the retail licensee to take delivery of said beer. The board shall transmit a duplicate copy of the retail licensee's special identification card to such wholesaler or wholesalers listed by the retail licensee. No wholesaler shall permit delivery of beer to a retail licensee at said wholesaler's platform until the wholesaler has authenticated the special identification card presented by the retail licensee. Such authentication shall be effected by the wholesaler's comparing the special identification card presented by the retail licensee with the duplicate copy of the special identification card transmitted to the wholesaler by the board.

AMD

WAC 314-20-105 BEER SUPPLIERS' PRICE FILINGS, CONTRACTS
AND MEMORANDA (Rule (49.5))

(1) Every licensed brewer shall file with the board at its office in Olympia a copy of every written contract and a memorandum of every oral agreement which such brewer may have with any beer wholesaler, which contracts or memoranda shall contain a schedule of prices charged to wholesalers for all items, all terms of sale, including all regular and special discounts; all advertising, sales and trade allowances and incentive programs; all commissions, bonuses or gifts and any and all other discounts or allowances. Whenever changed or modified such revised contracts or memoranda shall forthwith be filed with the board as provided in this regulation.

(2) No contract or memorandum of oral agreement shall become effective until fifteen days after the actual filing thereof with the board. In the event a contract or memorandum of oral agreement is filed before a previous one has become effective, the subsequent filing shall nullify said previous price posting.

(a) An exception is set forth in subsection (7) of Regulation (49) which provides for a change in wholesalers.

(3) Prices filed by a licensed brewer shall be uniform prices to all wholesalers on a statewide basis less bona fide allowances for freight differentials. Quantity discounts are prohibited. No price shall be filed which is below "cost," or below "cost of doing business," or a "loss leader" as those terms are defined in Chapter 19.90 RCW, Unfair Practices Act, except as otherwise provided in such Act.

(4) No licensed brewer shall sell or offer to sell any beer to any persons whatsoever in this state until copies of such written contracts or memoranda of such oral agreements are on file with the board.

(5) No licensed brewer shall sell or offer to sell any package or container of beer to any wholesaler at a price differing from the price for such package or container as shown in the schedule of prices filed by the brewer and then in effect.

(6) The provisions set forth in the foregoing subsections of this regulation shall also apply to written contracts and memoranda of oral agreements which must be filed with the board by every certificate of approval holder who sells beer to a beer importer, every beer importer who sells beer to another beer importer or to a beer wholesaler, and every beer wholesaler who sells beer to another beer wholesaler.

(7) Holders of certificates of approval may ship beer into this state when the beer has been sold and consigned to the holder of a beer importer's license at his licensed premises. The bill of lading covering such consignment shall not be changed or the beer diverted unless such diversion is to another beer importer, and the board so notified immediately.

(8) The board may reject any supplier's price filing, contract or memorandum of oral agreement or portion thereof which it deems to be in violation of this or any other regulation or which would tend to disrupt the orderly sale and distribution of beer. Whenever the board shall reject any such price filing, contract or memorandum the licensee submitting said price filing, contract or memorandum may be heard by the board and shall have the burden of showing that the said price filing, contract or memorandum is not in violation of regulation and/or does not tend to disrupt the

orderly sale and distribution of beer. Thereupon if said price filing, contract or memorandum is accepted it shall become effective at a time fixed by the board. If said price filing, contract or memorandum or portion thereof is rejected, the last effective price filing, contract or memorandum shall remain in effect until such time as an amended price filing, contract or memorandum is filed and approved, in accordance with the provisions of this regulation.

(9) All prices, contracts and memoranda filed as required by this regulation shall at all times be open to inspection to all trade buyers within the state of Washington and shall not in any sense be considered confidential.

AMD

WAC 314-24-190 WINE WHOLESALE PRICE POSTING (Rule (81))

(1) Every wine wholesaler shall file with the board at its office in Olympia a wine price posting, showing the delivered wholesale prices at which any and all brands of wine offered for sale by such wine wholesaler shall be sold to retailers within the state.

(2) All price postings must be received by the board not later than the fifteenth day of the month, and if approved will become effective on the first day of the calendar month following the date of such filing. An additional period, not to exceed five days will be allowed for revision of a price posting to correct errors, omissions, or to meet competitive prices filed during the current posting period, but a revised posting must be on file at the board office by not later than the twentieth day of the month in order to become effective on the first day of the next calendar month.

(3) Filing Date Exception--Whenever the fifteenth day of any month falls on Saturday, Sunday or a legal holiday, an original price posting may be filed not later than the close of business the next business day.

(4) In the event that a wine wholesaler determines to make no changes in any items or prices listed in the last filed and approved schedule, such prices listed in the schedule previously filed and in effect, shall remain in effect for each succeeding calendar month until a revised or amended schedule is filed and approved, as provided herein.

(5) Postings shall be submitted upon forms prescribed and furnished by the board, and shall set forth:

(a) All brands, types and sizes of packages or containers of wine offered for sale in this state by such wine wholesaler, which packages or containers shall be limited to the sizes permitted in Regulation (66).

(b) The delivered wholesale prices thereof within the state, which prices shall include the state wine gallonage tax of seventy-five cents per gallon imposed under RCW 66.24.210.

(6) No wine wholesaler shall sell or offer for sale any package or container of wine at a price differing from the price of such item as shown in the price posting then in effect.

(7) Quantity discounts are prohibited. No price shall be posted which is below "cost," or below "cost of doing business," or a "loss leader" as those terms are defined in Chapter 19.90 RCW, Unfair Practices Act, except as otherwise provided in such Act.

(8) Wholesale prices on a "close-out" item shall be accepted by the board if in compliance with Chapter 19.90 RCW and the item to be discontinued has been listed on the state market for a period of at least six months, and upon the further condition that the wholesaler who posts such a "close-out" price shall not restock the item for a period of one year following the first effective date of such "close-out" price.

(9) If an existing written contract or memorandum of oral agreement between a domestic winery, certificate of approval holder, wine importer, or wine wholesaler and a wine wholesaler, as filed in accordance with Regulation (82), is terminated by either party, and a new written contract or memorandum of oral agreement is made by such a supplier with another wine wholesaler in the affected trade area, the board, after receiving such new written contract or memorandum of oral agreement, and a

corresponding wholesale price posting from the newly designated wine wholesaler, may put such filings into effect immediately: Provided, That prices and other conditions of any such filings which are in effect at the time of such termination shall not be changed prior to the next applicable filing period.

(10) When a new wine wholesaler's license is issued for the first time by the board, the holder thereof may file an initial price schedule and request that such posting be placed into effect immediately. The board may grant such approval, providing that such posting is in compliance with all other applicable regulatory requirements, and that contracts and memoranda are on file, in accordance with Regulation (82).

(11) The board may reject any price posting or portion thereof which it deems to be in violation of this or any other regulation or which would tend to disrupt the orderly sale and distribution of wine. Whenever the board shall reject any posting the licensee submitting said posting may be heard by the board and shall have the burden of showing that the posting is not in violation of regulation and/or does not tend to disrupt the orderly sale and distribution of wine. Thereupon if said posting is accepted it shall become effective at a time fixed by the board. If said posting or portion thereof is rejected the last effective posting shall remain in effect until such time as an amended posting is filed and approved in accordance with the provisions of this regulation.

(12) A retail licensee, at his option, and upon payment of the posted delivered price as defined in Regulation (81), may take delivery of wine at the platform of a wine wholesaler, provided that such platform delivery shall be made only upon presentation to the wine wholesaler, at the time of such delivery, of a special identification card issued by the board to the retail licensee.

Such special identification cards shall be in such form as the board may prescribe and shall be issued to a retail licensee upon receipt by the board of such licensee's written request therefor and upon payment by the licensee to the board of an annual fee of five dollars for each such special identification card. Such written request shall list the name and address of the wholesaler or wholesalers at whose platform the retail licensee requests permission to take delivery of wine, and the name of the adult person or persons authorized by the retail licensee to take delivery of said wine. The board shall transmit a duplicate copy of the retail licensee's special identification card to such wholesaler or wholesalers listed by the retail licensee. No wholesaler shall permit delivery of wine to a retail licensee at said wholesaler's platform until the wholesaler has authenticated the special identification card presented by the retail licensee. Such authentication shall be effected by the wholesaler's comparing the special identification card presented by the retail licensee with the duplicate copy of the special identification card transmitted to the wholesaler by the board.

All price postings filed as required by this regulation shall at all times be open to inspection to all trade buyers within the state of Washington and shall not in any sense be considered confidential.

AMD

WAC 314-24-200 WINE SUPPLIERS' PRICE FILINGS, CONTRACTS
AND MEMORANDA (Rule (82))

(1) Every domestic winery shall file with the board at its office in Olympia a copy of every written contract and a memorandum of every oral agreement which such winery may have with any wine wholesaler, which contracts or memoranda shall contain a schedule of the prices charged to wholesalers for all items. Requirements for including or omitting from such prices the wine gallonage tax of seventy-five cents per gallon, imposed under RCW 66.24.210, are set forth in subsection (8) of this regulation. Contracts and memoranda required to be filed under this subsection must list all terms of sale, including all regular and special discounts; all advertising, sales and trade allowances; and all commissions, bonuses or gifts and any and all other discounts or allowances. Whenever changed or modified such revised prices, contracts or memoranda shall be filed with the board, as provided in this regulation.

(2) Filing Date--All written contracts and memoranda of oral agreements must be received by the board not later than the twenty-fifth day of the month, and if approved will become effective on the first day of the second calendar month following the date of such filing. An additional period will be allowed for revision of such filings to correct errors and omissions, or to meet competitive prices, filed during the current posting period, but a revised contract or memorandum of oral agreement must be on file with the board not later than the first day of the month in order to become effective on the first day of the next calendar month.

(3) Filing Date Exception--Whenever the twenty-fifth day of any month falls on Saturday, Sunday, or a legal holiday, an original contract or memorandum of oral agreement may be filed not later than the close of business the next business day.

(4) Exceptions for changes in wholesalers and newly licensed wholesalers are set forth in subsections (9) and (10) in Regulation (81).

(5) In the event that a domestic winery determines to make no changes in any contracts or memoranda last filed and then in effect, such contracts or memoranda shall remain in effect for each succeeding calendar month until revised or amended contracts or memoranda are filed and placed into effect as provided herein.

(6) Prices filed by a domestic winery shall be uniform prices to all wholesalers on a statewide basis less bona fide allowances for freight differentials. Quantity discounts are prohibited. No price shall be filed which is below "cost," or below "cost of doing business," or a "loss leader" as those terms are defined in Chapter 19.90, Unfair Practices Act, except as otherwise provided in such Act.

(7) The provisions set forth in subsections (1), (2), (3), (4), (5) and (6) shall also apply to written contracts and memoranda of oral agreements which must be filed with the board by certificate of approval holders who sell wine to wine importers; wine importers who sell to wine wholesalers; and wine wholesalers who sell to other wine wholesalers.

(8) The wine gallonage tax, imposed under RCW 66.24.210, is not to be included in the prices filed as required by subsection (1) of this regulation by (a) a domestic winery, nor (b) by a certificate of approval holder who is not licensed as a wine wholesaler, nor (c) a wine importer who is not licensed as a wine wholesaler.

Every wine wholesaler who sells wine to another wine wholesaler shall include such gallonage tax in the prices posted on such required schedules.

(9) No domestic wineries, certificate of approval holders, wine importers, or wine wholesalers shall sell any wine to any persons whatsoever in this state until copies of such written contracts or memoranda of such oral agreements are on file with the board.

(10) Certificate of approval holders may ship wine into this state when the same has been sold and consigned to the holder of an importer's license at his licensed premises. The bill of lading covering such consignment shall not be changed or the wine diverted unless such diversion is to another importer, and the board so notified immediately.

(11) The board may reject any supplier's price filing, contract or memorandum of oral agreement or portion thereof which it deems to be in violation of this or any other regulation or which would tend to disrupt the orderly sale and distribution of wine. Whenever the board shall reject any such price filing, contract or memorandum of oral agreement the licensee submitting said price filing, contract or memorandum may be heard by the board and shall have the burden of showing that the said price filing, contract or memorandum is not in violation of regulation and/or does not tend to disrupt the orderly sale and distribution of wine. Thereupon if said price filing, contract or memorandum is accepted it shall become effective at a time fixed by the board. If said price filing, contract or memorandum or portion thereof is rejected the last effective price filing, contract or memorandum shall remain in effect until such time as an amended price filing, contract or memorandum is filed and approved, in accordance with the provisions of this regulation.

(12) All prices, contracts and memoranda filed as required by this regulation shall at all times be open to inspection to all trade buyers within the state of Washington and shall not in any sense be considered confidential.